

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

QUADRA WALTON

v.

JAMES LOVELESS MONCEAUX,
FAST TRAC TRANSPORTATION, INC.,
AND CUMMINS, INC.

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CIVIL ACTION NO. 4:19-cv-4968

**DEFENDANT FAST TRAC TRANSPORTATION, LLC'S
APPEARANCE AND NOTICE OF REMOVAL**

BACKGROUND

1. This is a personal injury action arising from a motor vehicle accident that occurred in Harris County, Texas, on May 22, 2019.¹ Plaintiff Quadra Walton claims she suffered personal injuries as a result of the alleged negligence and gross negligence of Defendants.

STATE COURT ACTION

2. Plaintiff Quadra Walton filed suit against Defendants Fast Trac Transportation, Inc., Cummins, Inc., and James Loveless Monceaux on October 3, 2019.² The case was filed in Harris County Civil Court at Law No. 4 under cause number 1142785, case style *Quadra Walton v. James Loveless Monceaux, Fast Trac Transportation, Inc., and Cummins, Inc.*³

¹ See Ex. C (Plaintiff's Original Petition).

² See *id.*

³ *Id.*

JURISDICTION

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332(a) because this is a civil action in which the amount in controversy exceeds \$75,000, exclusive of interests and costs, and no proper-party defendant is domiciled in the same state as the plaintiff. Furthermore, under 28 U.S.C. § 1441(b)(2), no defendant is a citizen of Texas where this action was brought.

4. Walton seeks damages between \$100,000 and \$200,000 and is domiciled in the State of Texas.⁴

5. Defendant James Loveless Monceaux is domiciled in Louisiana.⁵

6. Named Defendants Fast Trac Transportation, Inc. and Cummins, Inc. are defunct entities which were terminated in 2018; these entities are defunct as of this filing, were defunct when Plaintiff's Original Petition was filed, and were defunct at the time of the May 22, 2019 accident that is the basis of this suit.⁶ As such, they are not proper parties to this suit and should not be considered for purposes of diversity of citizenship.

7. Fast Trac Transportation, LLC has not been named in this suit but is the proper party in interest because (1) the two named entities are defunct and (2) James Monceaux was driving for Fast Trac Transportation, LLC when the motor vehicle accident that is the basis of this suit occurred. Fast Trac Transportation, LLC's sole member is domiciled in Louisiana, and Fast Trac Transportation, LLC is therefore a Louisiana citizen for purposes of diversity.⁷

8. For these reasons, the amount-in-controversy and diversity requirements of 28 U.S.C. § 1332(a) are met, and the Court has original jurisdiction over this action.

⁴ *Id.* ¶¶ 1, 14.

⁵ *Id.* ¶ 2.

⁶ Ex. E (Texas Secretary of State Records Regarding Cummins, Inc. and Fast Trac Transportation, Inc.).

⁷ Ex. D (Fast Trac Transportation, LLC's Articles of Organization).

CONSENT TO REMOVE

9. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Fast Trac Transportation, LLC has obtained the necessary consent of James Monceaux to remove this case to federal court.⁸

TIMELINESS

10. After Walton filed her original petition, Harris County Civil Court at Law No. 4 issued a citation to Fast Trac Transportation, Inc. which Fast Trac Transportation, LLC received on November 20, 2019, when the suit was served to the listed registered agent for Fast Trac Transportation, Inc. Thirty days have not elapsed from that date. In the alternative, Fast Trac Transportation, LLC, as the proper party in interest, has not been served with the suit and so thirty days have not elapsed since service. Under 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely and proper.

**INSUFFICIENCY OF PLEADINGS:
RULE 12(e) MOTION FOR MORE DEFINITE STATEMENTS**

11. Walton asserts claims of negligent hiring, retention, entrustment, training, and safety implementation against the Defendant entities but alleges no facts to support these claims as to either the named Defendants or Fast Trac Transportation, LLC.⁹ To the extent Plaintiff's allegations can be construed to also be asserted against Fast Trac Transportation, LLC, Fast Trac Transportation, LLC requests Plaintiff be ordered to replead to provide fair notice of the factual basis of any such allegations.

CONDITIONS PRECEDENT

12. Fast Trac Transportation, LLC has tendered the required filing fee to the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with

⁸ Ex. F (James Monceaux's Consent to Removal).

⁹ See Ex. C ¶ 8.

this Notice of Removal. Defendant will promptly file a copy of this Notice of Removal with the Harris County Clerk and will provide notice to Walton through her counsel of record.

13. Copies of all executed process, pleadings, and orders filed in state court, as well as the docket sheet, an index of matters being filed, and list of counsel of record accompany this notice.¹⁰

CONDITIONAL REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

14. If Plaintiff Quadra Walton contests this removal, Fast Trac Transportation, LLC requests (1) a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter; (2) the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and (3) leave to conduct limited discovery related to those issues.

JURY DEMAND

15. Defendant demands a jury trial.

CONCLUSION

Fast Trac Transportation, LLC respectfully requests that this action be removed from Harris County Civil Court at Law No. 4 to this Court.

¹⁰ See 28 U.S.C. § 1446; S.D. Tex. Civ. R. 81.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ *David Helmey*

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ATTORNEYS FOR DEFENDANTS

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AND JAMES LOVELESS MONCEAUX

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record through the Court's ECF system on December 20, 2019:

Cedrick D. Forrest
Attorney for Plaintiff

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/s/ *David Helmey*

DAVID HELMEY